

No. 9 (1) 81-6Lab /15233.— In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workmen and the management of M/s Indian Aluminium Cables Limited, 12/1, Mathura Road Faridabad.

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER,
LABOUR COURT, HARYANA, FARIDABAD

Reference No 59 of 1981

between

SHRI SURINDER PANDEY, WORKMAN AND THE MANAGEMENT OF
M/S. INDIAN ALUMINIUM CABLES LIMITED, 12/1, MATHURA ROAD,
FARIDABAD

Shri G.S. Chaudhry for the workman.

Shri K.P. Aggarwal for the respondent-management.

AWARD

This reference No. 59 of 1981 has been referred to this Court by the Hon'ble Governor of Haryana, — vide his order No. ID/FD/277-80/7088, dated 5th February, 1981. under section 10(i) (c) of the Industrial Disputes Act, 1947 for adjudication of the dispute existing between Shri Surinder Pandey, workman and the respondent management of M/s Indian Aluminium Cables, Limited, 12/1, Mathura Road, Faridabad. The term of the reference was :—

Whether the termination of services of Shri Surinder Pandey was justified and in order ? If not, to what relief is he entitled ?

On receiving this references, the notices were issued to the parties, who came present in the court and filed their pleadings. According to the demand notice and claim statement the case of the workman is that he joined the services of the respondent on 1st August, 1979 as helper at a salary of Rs 265/- p.m. The work and conduct of the workman as satisfactory during this period. The claimant formed the union in the respondent factory and became active member of the union. That on 8th July, 1980 without any notice or reason given to the claimant, illegally terminated the services of the claimant. The workman was a permanent employee and this type of termination is illegal and the workman is entitled for his reinstatement with continuity of service and with full back wages.

According to the written statement the case of the respondent is that the claimant was appointed as temporary helper from 1st August, 1979 @ Rs. 250 p.m. on temporary basis. According to appointment letter the claimant was appointed for six months and his services were extended for another six months after completion of his six months period. The claimant was rightly terminated on the expiry of the contract period and the workman was informed about this order through registered post and telegramme. So the workman is not entitled for any relief and the references may be rejected.

On the pleadings of the parties, the following issues were framed :—

1. Whether the termination of services of the workman is proper, justified and in order ? If not, to what relief is he entitled ?
2. Relief ?

My findings on the issue is as under :—

Issue No. 1 :—

The representative of the management argued that the claimant was appointed on 1st August, 1979,—vide Ex.M-2. The appointment letter which was signed by the claimant upto 31st January, 1980 as a temporary helper @ Rs. 250 per month. After the expiry of six month, his period was further extended upto to 31st July, 1980 according to written contract between the parties. The extention was given to the workman,—vide Ex. M-1 which is also signed by the workman but the service of the workman were not further required by the respondent so he was given a letter Ex. M-5 for the termination of his services as they are no longer required by the respondent w.e.f. 8th July, 1980 and also written in the same letter that you may collect your dues if any in full and final settlement from the accounts department. After submission of clearance slip. The retrenchment benefits envisaged in Section 25-F of the Industrial Disputes Act, 1947 will also be paid to you with other due. The respondent sent the letter Ex. M-5 through registered post which Ex. M-3 and acknowledgement is Ex. M-4 and through a telegramme which is Ex. M-6. The respondent did not required the services of the workman so he was terminated according to contract which is given in Ex. M-2 and there is nothing wrong in the orders and the workman is not entitled for any relief. He further argued that the statement of workman that he formed a union in the factory does not clear the victimisation due to union activities. Simply saying that he is member of the union does satisfy the victimization of the workman. The workman sent his demand notice through All Indian Kisan Mazdoor Sangh and his case is conducted at present by some other union shows the union activities of the workman. So he was not removed due to the union activities. The representative of the workman argued that the workman was appointed as helper at salary of Rs. 265 p.m. and the workman signed Ex. M-2 the appointment letter which was not filed up at the time of his signatures, so the claimant does not know any contract or any terms and conditions of the employment. He was not told by the management that he was employed at a temporary job rather he was given the impression that he was a permanent employee. The workman did not sign Ex. M-1 which is a letter dated 31st January, 1980 for extension of the period of the claimant. He has denied his signature in his cross examination suggestion by the representative of the respondent. He has admitted his signature on Ex. M-2. His work and conduct was efficient and satisfactory and on this base his services was continued without any complaint or written explanation of the workman. His explanation was not called through out the period of his service except last termination of his service, which is also without any reason. As admitted by the witness MW-1 Shri Sudharshan Kumar in his cross-examination that about 150 persons working in the factory and they employ the helpers when ever they required. He denied this suggestion of the workman's representative that Shri Lacha, Joginder Singh, Sita Ram were employed after the termination of the workman. The respondent had admitted in Ex. M-5 that they are ready to pay retrenchment compensation to the workman if the respondent admitted that the workman was retrenched then the workman had the first right of service in the respondent factory before other workmen employed in the factory after his termination. The workman did not receive any letter from the respondent for the service. Though the respondent had employed so many person after his termination which also illegal. The workman completed the days 240 for the condition of continuous service. After completion of this period, the respondent can not terminate the services of the workman without adopting the provisions of the law so the order of termination of services of the workman is illegal and without justification. The workman did not receive the letter Ex. M-5 and telegramme Ex. M-6 as he went home after the termination of service as he has stated in his statement as WW-1. The workman was entitled for the retrenchment compensation after the continuous service which the respondent failed to give. The respondent had also failed to comply with the mandatory provisions of section 25-F of the I.D. Act. So the termination is again unjustified, un-fair and improper. The workman is entitled for his reinstatement with continuity of service and with full back wages.

After hearing the arguments of both the parties, and going through the file, I am of the view that when the respondent himself admits in letter Ex. M-5 that the claimant is entitled for retrenchment benefits under section 25-F of the I.D. Act and they also admits it in the statement of MW-1 Shri Sudarshan Kumar that they are still ready to pay the dues to the claimant under section 25-F of the Industrial Disputes Act, but they have not comply with the provisions of the retrenchment which are required under the law. It is also admitted fact that the respondent had employed so many other persons in the same job after termination of workman and not given chance to the workman to given the service to the respondent. The respondent had given no reason in the termination letter. It shows that there was wrong to terminate the services of the workman, without any allegations. So the order of termination is wrong and not justified of proper and the workman is entitled for his reinstatement with full back wages and continuity of service.

This be read in answer to this reference.

Dated 17th December, 1981.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana,
Faridabad.

Endorsement No. 6 3515, dated the 23rd December, 1981

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana,
Faridabad.

The 22nd January, 1982

No. 9(1)82-6 Lab. 145.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workmen and the management of M/s Sonapat Engineering Works, Industrial Estate, Sonapat.

BEFORE SHRI BANWARI LAL DALAL, PRESIDING OFFICER LABOUR
COURT, HARYANA, ROHTAK
Reference No. 36 of 1980

between

SHRI JAGDISH PARSHAD, WORKMAN AND THE MANAGEMENT OF M/S
SONEPAT ENGINEERING WORKS INDUSTRIAL ESTATE, SONEPAT.

Present—

Shri Ram Sarup Lakra, for the workman.
No one for the management.

AWARD

This reference has been referred to this court by the Hon'ble Governor, — vide his order No. ID/SPT/153-79/9761, dated 25th February, 1980 under section 10 (i) (c) of the Industrial Disputes Act for adjudication of the dispute existing between Shri Jagdish Parshad workman and the management of M/s Sonapat Engineering Works, Sonapat. The term of the reference was :—

“Whether the termination of services of Shri Jagdish Parshad was justified and in order ? If not, to what relief is he entitled ?”

On the receipt of the order of reference notices as usual were sent to the parties. The parties, appeared in response to the notices through their authorised representatives the workman filed his statement of claim on 29th April, 1980. The management obtained

six adjournments for filing the written statement and filed the same on 14th October, 1980. The workman filed his rejoinder on 9th December, 1980 and the issue as per the term of reference was framed on the basis of the pleas of the parties. The management was asked to lead their evidence on 8th January, 1981. The management obtained six adjournments for the production of their evidence but they failed to produce the same. On 22nd September, 1981 the authorised representative of the management Shri Kanwal Singh made a statement at the bar that the management did not contact him despite his intimation to them. He withdrew himself from the proceedings stating further that he had no instruction from the management. I closed the case of the management presuming that the management was not interested and proceeded *ex parte* against the management. The *ex parte* order was set aside on 6th November, 1981 on payment of Rs 20 as cost and the case was fixed for evidence of the management on 16th November, 1981 at Bahadurgarh instead of 8th January, 1982 in consultation with the representatives of the parties. On 16th November, 1981 the management representative Shri Kanwal Singh raised objection that the case was not fixed for today change in the date was not made in his presence. He admitted that he was called on the previous date of hearing and was enquired whether he was appearing in other cases on 16th November, 1981 at Bahadurgarh. The objection of the management representative was without any basis and could not be conceded and from the previous conduct of the management and its representative it could well be judged that Shri Kanwal Singh was engaged only to delay the proceedings. Shri Kanwal Singh was asked to file his letter of authority on the previous date of hearing as per his own statement that he had no instruction from the management but he failed to file the same. The management was again proceeded *ex parte* on 16th November, 1981 and the case was fixed for *ex parte* evidence of the workman on 3rd December, 1981. The management representative presented an application for setting aside the *ex parte* order dated 16th November, 1981 on the same grounds that the management had no knowledge of the change of the date to which I was not prepared to accept as true and the application was rejected.

The workman himself appeared as his witness who deposed that he was in the employment of the respondent for the last about two and a half year. The management terminated his services on 11th June, 1979 when he pressed his demand for over time wages for work done overtime which the management used to get from their employees. The management did not allow him duty by saying that they will make him the leader. During conciliation meetings on 25th June, 1979 the management agreed to take him back on duty but when he reported for duty the next day he was rebuked and was not taken on duty by saying that the Labour Officer will give you duty. He has further stated that the management did not give him any notice nor any chargesheet was issued nor he was paid any retrenchment compensation.

The management did not care to defend themselves against the demand of the workman. I have no reason to disbelieve the unrebutted *ex parte* statement of the workman made on oath. Relying on his statement I hold that the management terminated the services of workman without following the mandatory provisions of section 25F. The management has not come forward to prove their allegation of wilful absence thereby abandonment of service on the part of the workman. The termination is neither justified nor in order. The workman is entitled to reinstatement with continuity of service and with full back wages. The reference is answered and returned accordingly.

Dated the 29th December, 1981.

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Haryana, Rohtak.

Endst. No. 4549, dated the 31st December, 1981

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act.

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Haryana, Rohtak.